

PD-0711-18

IN THE TEXAS COURT OF CRIMINAL APPEALS

FILED
COURT OF CRIMINAL APPEALS
9/21/2018
DEANA WILLIAMSON, CLERK

AT AUSTIN, TEXAS

EX PARTE BRANDON JOSEPH ADAMS

On Appeal from the Court of Appeals
Eleventh Judicial District, Eastland, Texas
Cause Number 11-17-00332-CR
42nd District Court of Taylor County, Texas
Honorable James Eidson, Judge Presiding
Trial Court Cause Number 26,815-A

**STATE'S FIRST MOTION FOR EXTENSION OF TIME
TO FILE BRIEF ON THE MERITS**

TO THE HONORABLE COURT OF CRIMINAL APPEALS:

The State of Texas, by and through its Assistant District Attorney, moves the Court for an extension of time to file its Brief on the Merits in the above-entitled and numbered cause.

I. Statement of the Case

This is an appeal from the 42nd District Court's denial of Appellant's double jeopardy claim. On June 14, 2018, the Eastland Court of Appeals reversed the trial court's decision and rendered a

judgment of acquittal. No motion for rehearing was filed. The State requested an extension of time to file the Petition for Discretionary Review on July 11, 2018; the date was extended to August 15, 2018 and the State filed the petition on July 31, 2018. The Court granted the State's Petition for Discretionary Review on September 12, 2018. The State's Brief on the Merits is due on October 12, 2018. This is the State's first motion for extension of time to file the Brief on the Merits.

II. Cases Recently Filed and Argued

Counsel had a brief due in *John Louis Atkins v. State of Texas*, 11-18-00056-CR on October 5, 2018; this brief was timely filed on September 19, 2018. This brief had been granted prior extensions and necessarily took precedence over other briefs. Additionally, this was a murder case with a 10 volume reporter's record and multiple points of error alleged by the defendant; the State's brief was 45 pages long and took a considerable amount of time in both research and drafting. Counsel had a brief due in the Eastland Court of Appeals on October 17, 2018 in *Morris Wayne Thomas v. State of Texas*, 11-17-00364-CR, timely filed on September 21, 2018; this

brief had been granted a previous extension. Counsel had a motion for rehearing due and timely filed in the Eastland Court of Appeals on September 4, 2018 in *Scott Lafette Simpson v. State of Texas*, 11-16-00198-CR; the *Simpson* motion for rehearing was previously granted one 15 day extension to allow for completion of *In the Interest of C.F., a Child* and accordingly took precedence over other briefs. Counsel for the State had a brief due and timely filed on August 28, 2018 in *In the Interest of C.F., a Child*, 11-18-00161-CV, with no extensions sought by the State. This is an accelerated appeal and necessarily took precedence over other briefs.

III. Briefs and Oral Arguments Pending

Counsel had five briefs due in a four day span in the first week of September: three briefs, *Donald Edward Stovall v. State of Texas*, 07-18-00134-CR, *Kanyoni Sedekiya v. State of Texas*, 11-18-00148-CR, and the *Simpson* motion for rehearing mentioned above, were all due on the same date, September 4, 2018, the brief in *John Louis Atkins v. State of Texas*, 11-18-00056-CR was due the following day, September 5, 2018, and the brief in *Morris Wayne Thomas v. State of Texas*, 11-17-00364-CR on September 7, 2018.

As mentioned above, *Simpson* was timely filed on that date. The brief in *Atkins* was extended to October 5, 2018, and was filed ahead of that date on September 19, 2018; *Morris* was extended to October 17, 2018 and was filed ahead of that date on September 21, 2018. *Sedikaya* and *Stovall* were both granted extensions to October 4, 2108. Counsel has a brief due on September 26, 2018 in *Howard Dee Sturgis v. State of Texas*, 11-18-00016-CR. Counsel had a brief due in *Debra Diane Aguero*, 11-18-00155-CR on September 7, 2018; a first motion for extension of time is pending. Counsel is working on a response to a petition for a writ of habeas corpus in *Ex Parte Ray Hightower*, WR-19,518-13 and WR-19,518-14, which the Court of Criminal Appeals remanded to the trial court for findings of fact and conclusions of law on July 25, 2018.

IV. Personal

Counsel has a board certification examination for criminal appellate law approaching on October 15, 2018. The State's Brief on the Merits in this case is currently due on October 12, 2018, three days before the examination.

V. Prayer

The State requests a 15 day extension. This request for extension of time is not made solely for the purpose of delay, but so that justice may be served.

Respectfully submitted,

James Hicks
Criminal District Attorney
Taylor County, Texas
300 Oak Street, Suite 300
Abilene, Texas 79602
325-674-1261
325-674-1306 FAX

BY: /s/ Britt Lindsey
Britt Lindsey
Assistant Criminal District Attorney
Appellate Section
300 Oak Street, Suite 300
Abilene, Texas 79602
325-674-1376
325-674-1306 FAX
lindseyb@taylorcountytexas.org
State Bar No. 24039669
Attorney for the State

CERTIFICATE OF COMPLIANCE

I, Britt Lindsey, affirm that the above motion is in compliance with the Rules of Appellate Procedure. The font size in the body of the motion is 14 pt. The word count is 946 including the entire motion.

/s/ Britt Lindsey
Britt Lindsey

CERTIFICATE OF SERVICE

I certify that on this 21st day of September, 2018, a true copy of the foregoing State's First Motion for Extension of Time was served on attorney for Appellant according to the requirements of law by email or efilng to:

Kevin W. Willhelm
Willhelm Law Firm
P.O. Box 3536
Abilene, Texas 79604

Attorney for appellant, Brandon Joseph Adams;

Stacey M. Soule
State Prosecuting Attorney
P.O. Box 12405
Austin, Texas 78711
Email: information@spa.texas.gov

State Prosecuting Attorney's Office.

/s/ Britt Lindsey
Britt Lindsey